

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
ViaSat, Inc.) File No. SAT-PDR-20161115-00120
)
Petition for Declaratory Ruling Granting)
Access to the U.S. for a Non-U.S.-)
Licensed Non-geostationary Orbit)
Satellite Network)

PETITION TO DENY

In the above-captioned “Petition,” ViaSat, Inc. (“ViaSat”) seeks authority to serve the U.S. market using a planned non-geostationary satellite orbit (“NGSO”) satellite system.¹ Telesat Canada (“Telesat”) files this Petition to Deny for the reasons set out below.

The frequencies proposed by ViaSat for its operations overlap with the following frequency bands Innovation, Science and Economic Development Canada (“ISED”) has authorized Telesat to use for its NGSO network: 17.8-18.6 GHz, 18.8-19.3 GHz, and 19.7-20.2 GHz (space-to-Earth) and 27.5-29.1 GHz and 29.5-30.0 GHz (Earth-to-space).²

ViaSat’s NGSO system would interfere with Telesat’s NGSO operations because the two systems would operate in overlapping geographical areas on overlapping Ka-

¹ See *Public Notice, Applications Accepted For Filing, Cut-Off Established for Additional NGSO-Like Satellite Applications or Petitions For Operations in the 12.75-13.25 GHz, 13.85-14.0 GHz, 18.6-18.8 GHz, 19.3-20.2 GHz, and 29.1-29.5 GHz Bands*, DA 17-524, File No. SAT-LOI-20161115-00121 (May 26, 2017).

² Telesat Approvals in Principle, ISED file 3150-1 (557203 AT) dated June 26, 2015, and ISED file 3150-1 (565832 SS) dated June 26, 2015, for the 27.5 – 29.1, 29.5 – 30, 17.8 – 19.3, and 19.7 – 20.2 GHz bands.

band frequencies. Because ViaSat's NGSO system would interfere with Telesat's NGSO operations, Telesat hereby opposes ViaSat's Petition.³

ViaSat acknowledges the potential of in-line interference events with other NGSO operators. While saying that it will engage in "good faith efforts to facilitate cofrequency compatibility with these other proposed systems to the extent practicable," ViaSat further states that, "[i]n certain scenarios, it may be necessary to resort to band segmentation – possibly only during in-line events, possibly more broadly."⁴

As reflected in filings in connection with the Commission's pending *NGSO NPRM*, ViaSat and Telesat are, in fact, in substantial accord that in-line events between and among the NGSO systems that have been proposed would occur a substantial percentage of the time. Where Telesat and ViaSat part company is on the solution to this problem of in-line event interference. Viasat's proposed solution, as suggested in its Petition, is band segmentation. Telesat's proposed solution is the application of ITU coordination procedures.

³Telesat is filing this Petition to Deny to preserve its rights. Telesat recognizes that the Commission is still developing rules to address constellations of NGSO-like satellites and has stated that applicants will be given an opportunity to amend their filings to conform to the new requirements. *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Notice of Proposed Rulemaking, 31 *FCC Rcd* 13651 (2016) ("*NGSO NPRM*"). Telesat also recognizes that if ViaSat's Petition is granted before the Commission's rulemaking is completed, the Petition likely will be conditioned on the outcome of the rulemaking, as was done with OneWeb's application. See *WorldVu Satellites Limited, Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System*, IBFS File No. SAT-LOI-20160428-00041 (rel. June 23, 2017) ("*OneWeb Grant*"), at ¶¶ 12 and 26. If the rules the Commission adopts or a future ViaSat amendment resolve Telesat's interference concerns, it will withdraw its objection.

⁴ ViaSat Petition, Attachment A (Technical Annex) at 27.

Viasat's Petition is silent on ITU coordination. Thus, while the Petition includes reference to a 2016 ITU Advanced Publication by the Netherlands in support of Viasat's network, with the notation that additional ITU filings may be made,⁵ ViaSat offers no recognition that the Canadian ITU filings that are associated with Telesat's NGSO system have date priority over this filing or later ITU filings that may be associated with ViaSat's system.⁶

In granting OneWeb's NGSO application, the Commission recognized that "[c]ompliance with ITU coordination procedures is a requirement of the ITU Radio Regulations, which hold the force of treaty to which the United States is a party," and that "[s]uch compliance is a typical condition of both U.S. space station licenses and grants of U.S. market access."⁷ Based on this requirement, and in response to concerns raised by Telesat, the Commission conditioned the grant of OneWeb's NGSO application on compliance with ITU requirements.⁸ The same considerations apply here, and so the same condition should apply to any grant of ViaSat's Petition.

In view of the potential for ViaSat's system to interfere with Telesat's NGSO operations, ViaSat's Petition should not be granted in its present form. At a minimum, any grant should be conditioned on the outcome of the NGSO rulemaking, as the Commission did in granting OneWeb's NGSO application.⁹ Finally, in recognition of

⁵ See ViaSat Petition, Attachment B, referencing BR IFIC 2825/02.08.2016.

⁶ See COMMSTELLATION network published as CR/C/3313 and CR/C/3313 MOD-2, and CANPOL-2 network published as CR/C/3474 MOD-1

⁷ *OneWeb Grant*, n. 35.

⁸ *OneWeb Grant*, ¶ 23(a).

⁹ *OneWeb Grant*, ¶¶ 12 and 26.

U.S. treaty obligations, any grant should be conditioned on compliance with ITU requirements.

Respectfully submitted,

TELESAT CANADA

/s/
Elisabeth Neasmith
Director, Spectrum Management and Development
1601 Telesat Court
Ottawa, Ontario
Canada, K1B 5P4
(613) 748-0123

June 26, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2017, a copy of the foregoing
Petition to Deny was sent by electronic mail to the following:

John P. Janka
JOHN.JANKA@LW.com

/s/
Katia Carty